

Message Text

SECRET

PAGE 01 MANILA 02117 01 OF 02 111131Z

20

ACTION EA-06

INFO OCT-01 SS-14 ISO-00 PM-03 DODE-00 INR-05 CIAE-00

NSC-05 NSCE-00 L-01 SP-02 OMB-01 EB-03 /041 W

----- 024084

P 111008Z FEB 76

FM AMEMBASSY MANILA

TO SECSTATE WASHDC PRIORITY 2060

S E C R E T SECTION 1 OF 2 MANILA 2117

LIMDIS

E. O. 11652: GDS

TAGS: MARR, RP

SUBJECT: MILITARY BASE NEGOTIATIONS

REF: (A) STATE 29990, (B) MANILA 1983

1. WE APPRECIATE THE HELPFUL AND CONSTRUCTIVE SUGGESTIONS FOR IMPROVING AND CLARIFYING PROVISIONS OF THE DRAFT AGREEMENT. THE FOLLOWING COMMENTS ARE KEYED TO THE QUESTIONS AND COMMENTS CONTAINED IN PARAS 4 THROUGH 10 OF REF A:

2. PARA 4 (SECURITY - ARTICLE I, PARA 3; ANNEX C):

DESIGNATION OF AREAS - IT WILL BE NOTED THAT IN ANNEX B (DESIGNATION OF FACILITIES) THE US IS AUTHORIZED TO USE BROADLY DESIGNATED AREAS, I.E., ALL OF SUBIC AND THE CENTRAL OPERATING AREAS (AIR BASE AND COMMO AREA) AT CLARK. WITHIN THESE BROAD AREAS THERE WILL BE SPECIFIC FACILITIES IDENTIFIED AND DESIGNATED FOR EXCLUSIVE US OPERATIONAL USE THROUGH THE MECHANISM OF THE MUTUAL DEFENSE BOARD. FACILITIES NOT REQUIRED FOR US OPERATIONS WOULD BE RELINQUISHED THROUGH THIS SAME PROCESS. THIS SEEMS A MORE PRACTICAL APPROACH THAN TRYING TO INCORPORATE WITHIN THE TEXT OF THE AGREEMENT DETAILED LISTS OF EXCLUSIVE USE FACILITIES WHICH WOULD RANGE FROM WAREHOUSES TO GARBAGE DUMPS.

SECRET

SECRET

PAGE 02 MANILA 02117 01 OF 02 111131Z

PHILIPPINE SECURITY LEGISLATION - THE PROVISIONS IN THE

CURRENT BASE AGREEMENT FOR PHILIPPINE SECURITY LEGISLATION HAVE NEVER BEEN IMPLEMENTED. UNDER THE TERMS OF THE PROPOSED NEW AGREEMENT, THE BASES ARE CLEARLY PHILIPPINE BASES AND SPECIFIC REFERENCE TO GOP SECURITY LEGISLATION WOULD SEEM INAPPROPRIATE. IN PRACTICAL TERMS, EXISTING PHILIPPINE LAW CONCERNING THE SECURITY OF FENCED-IN AREAS IS QUITE SATISFACTORY. IT WOULD BE OUR INTENTION THAT THE EXCLUSIVE US FACILITIES CONTEMPLATED IN THE NEW AGREEMENT WOULD BE WITHIN FENCED-IN AREAS.

MUTUAL AGREEMENT - WE CONCUR THAT PHRASE "BY MUTUAL AGREEMENT" IN FINAL SENTENCE OF PARA I, ANNEX C IS REDUNDANT AND SHOULD BE DELETED.

3. PARA 5 (LABOR - ARTICLE I: PARA 4 AND ANNEX D; ARTICLE IV):

LABOR - OUR INTENT ON LABOR PROVISIONS IS TO EMULATE MOST SUITABLE FEATURES OF OUR BASE LABOR ARRANGEMENTS IN JAPAN AND SPAIN. WE SEEK A WORKABLE INDIRECT HIRE FORMULA WHICH WILL GIVE THE GOP PRIMARY RESPONSIBILITY FOR PROVIDING AND MANAGING OUR LABOR NEEDS WHILE LEAVING US WITH SUFFICIENT LEVERAGE TO CONDUCT RIFS, PROVIDE PROCEDURES FOR EFFECTIVE DISCIPLINE AND EMPLOY SOME US CITIZENS FOR SPECIAL MANAGEMENT AND SECURITY NEEDS. WE WOULD HOPE THAT WORKING GROUP COULD PUT TOGETHER AN APPROPRIATE DRAFT PROCEDURAL ANNEX, DRAWING FROM EXPERIENCE IN JAPAN AND SPAIN, WHICH WE COULD REVIEW HERE BEFORE THE AMBASSADOR DEPARTS FOR WASHINGTON. WE WOULD APPRECIATE RECEIVING SUCH A DRAFT BY MARCH 1.

UNUSED AREAS - THERE WILL BE AREAS WITHIN THE BASES DESIGNATED FOR EXCLUSIVE PHILIPPINE USE AND AREAS DESIGNATED FOR EXCLUSIVE USE USE. THERE WILL BE ADDITIONAL REAL ESTATE BETWEEN AND ON THE MARGINS OF THESE EXCLUSIVE USE AREAS WHICH WILL NEED CARE AND TENDING. OPEN AREAS, BOUNDARY MARGINS, RECREATIONAL AREAS, HILLSIDES, ETC., ARE IN THIS CATEGORY. THESE AREAS ARE TO BE IDENTIFIED THROUGH THE MUTUAL DEFENSE BOARD. CONCERNING OUR USE OF THE WORDS "PRIMARY USE" IN THAT PORTION OF THE TEXT (PARA IV OF ANNEX D), THE WORDS "EXCLUSIVE USE" WOULD BE MORE APPROPRIATE

SECRET

SECRET

PAGE 03 MANILA 02117 01 OF 02 111131Z

AND SHOULD BE SUBSTITUTED.

4. PARA 6A (COMMAND - ARTICLE I: ANNEX A; PARA I, SUBPARA A):

FLAG - IT WILL BE RECALLED THAT THE U.S. AND PHILIPPINE FLAGS DO NOW FLY SIDE BY SIDE OVER THE BASES. THIS HAS NOT BEEN ENOUGH TO SATISFY DEEP PHILIPPINE SENSITIVITY TO WHAT THEY SEE AS ONE OF THE MOST VISIBLE SYMBOLS OF SOVEREIGNTY

AT THE BASES. THE FLAG ISSUE TOUCHES THE MOST BASIC EMOTIONS ON THE PHILIPPINE SIDE. ALLOWING THE PHILIPPINE FLAG TO FLY ALONE OVER THE BASES WOULD PROVIDE ENORMOUS PSYCHOLOGICAL BENEFITS, BETTER ENABLING US TO SECURE OUR MORE TANGIBLE OPERATING INTERESTS. WE THEREFORE CONSIDER THIS ISSUE NON-NEGOTIABLE.

5. PARA 6B (COMMAND - ARTICLE I: ANNEX A, PARA I, SUBPARA B):

JURISDICTION - THERE WAS NO INTENT TO GIVE THE PHILIPPINE BASE COMMANDER ANY RESPONSIBILITIES IN CRIMINAL JURISDICTION AREA EXCEPT PERHAPS GOOD OFFICES. THE CRIMINAL JURISDICTION REGIME SHOULD REMAIN AS APARALLEL AS POSSIBLE TO THE PROVISION CONTAINED IN THE PRESENT AGREEMENT. TO ACCOMPLISH THIS, THE EMBASSY UTILIZED FOR PROCEDURAL ANNEX II THE SUBSTANCE OF THE U.S. TABLED POSITION IN THE 1971-72 NEGOTIATIONS WITH SOME MODIFICATIONS. ESSENTIALLY THE EMBASSY MODIFICATIONS WERE THE INCLUSION OF ONE OF THE PHILIPPINE PROPOSALS ON INTER SE OFFENSES (LAST CLAUSE OF PARA 1(B), PROCEDURAL ANNEX II), THE TIGHTENING OF TIME STANDARDS FOR REVIEW OF OFFICIAL DUTY CERTIFICATES (PARA 19 (C)), AND A DEFINITION OF INTER SE OFFENSES (PARA 20). WE ATTEMPTED TO REINFORCE THE CONCEPT THAT CRIMINAL JURISDICTION PROCEDURES SHOULD CONTINUE WITH AS LITTLE MODIFICATION AS POSSIBLE BY MAINTAINING CRIMINAL JURISDICTION IMPLEMENTATION COMMITTEE AS A SEPARATE JOINT COMMITTEE OUTSIDE OF MDB FRAMEWORK. SUGGEST CLARIFICATION OF THE PHILIPPINE BASE COMMANDER'S ROLE COULD BE ACCOMPLISHED BY INSERTING THE WORD "ADMINISTRATION" AND DELETING THE WORD "JURISDICTION" IN LINE SIX. ALSO IN ORDER TO CLARIFY AND SPECIFY WHICH US COMMANDE IS INVOLVED N LINES 7 AND 8, THE WORDS "IN CHARGE OF THE US FORCES ON THE PARTICULAR PHILIPPINE BASE" SHOULD BE INSERTED AFTER THE WORD "COMMANDER" ON LINE 8. THE WORD "EXCLUSIVE"

SECRET

SECRET

PAGE 04 MANILA 02117 01 OF 02 111131Z

SHOULD BE INSERTED ON LINE 10 BEFORE THE WORD "USE". AS MODIFIED, ANNEX A, PARA I, SUBPARA B WOULD READ:

" THE MILITARY FACILITIES DESCRIBED IN ANNEX B WILL BE UNDER THE COMMAND OF THE PHILIPPINE ARMED FORCES AS REPRESENTED BY A PHILIPPINE BASE COMMANDER WHO WILL HAVE COMPLETE AUTHORITY OVER ALL PHILIPPINE MILITARY PERSONNEL ASSIGNED TO THE BASE AND RESPONSIBILITY FOR ADMINISTRATION ON THE BASE IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT. THE UNITED STATES COMMANDER IN CHARGE OF THE US FORCES ON THE PARTICULAR PHILIPPINE BASE SHALL EXERCISE COMPLETE AUTHORITY AND CONTROL OVER UNITED STATES PERSONNEL, EQUIPMENT, MATERIAL AND FACILITIES WHICH HAVE BEEN DESIGNATED FOR THE EXCLUSIVE USE

OF UNITED STATES MILITARY FORCES AND OVER ALL
MILITARY OPERATIONS INVOLVING UNITED STATES FORCES."

THE EMBASSY DOES NOT BELIEVE IT DESIREABLE TO SPELL OUT IN
AGREEMENT THE PRECISE DUTIES AND RESPONSIBILITIES OF THE
PHILIPPINE AND US COMMANDERS AT EACH BASE. IT APPEARS
PREFERABLE TO PROVIDE SOME LEEWAY AND ALLOW RELATIONSHIP
TO EVOLVE UNDER GENERAL MDB GUIDELINES.
SULLIVAN

SECRET

NNN

SECRET

PAGE 01 MANILA 02117 02 OF 02 111145Z

20

ACTION EA-06

INFO OCT-01 ISO-00 SS-14 PM-03 DODE-00 INR-05 CIAE-00

NSC-05 NSCE-00 L-01 SP-02 OMB-01 EB-03 /041 W

----- 024279

P 111008Z FEB 76

FM AMEMBASSY MANILA

TO SECSTATE WASHDC PRIORITY 2061

S E C R E T SECTION 2 OF 2 MANILA 2117

6. PARA 6C (COMMAND-ARTICLE I: ANNEX A, PARA I, SUBPARA C):

REVIEW - EMBASSY ASSUMED THAT PROVIDING MDB REVIEW OF
INSTALLATION REGULATIONS IMPLIED IPSO FACTO THE RIGHT TO AMEND
OR CHANGE SUCH. HOWEVER, TO CLARIFY SUGGEST THE WORDS "AND
APPROVAL" BE INSERTED AFTER "REVIEW" IN LAST LINE.

7. PARA 7A (ADMINISTRATION - ARTICLE I: ANNEX A, PARA II,
SUBPARA A):

COMMANDER - THE "PHILIPPINE COMMANDER" REFERRED TO WILL
BE THE OFFICER DESIGNATED AS THE OVERALL COMMANNER OF THE
INSTALLATION, I.E., CLARK OR SUBIC.

TRAINING - PHILIPPINE MILITARY PERSONNEL ARE TO BE
TRAINED (1) TO OPERATE THZ FACILITIES WE RELINQUISH TO THEM
NOW AND (2) TO PREPARE THEMSELVES FOR BROADER ADMINISTRATIVE
RESPONSIBILITIES AT THE INSTALLATIONS IN THE FUTURE. TO
EXPLICITLY POINT OUT IN THE TEXT OF THS AGREEMENT THAT

TRAINING IS FOR PHILIPPINE TAKE-OVER WHEN US FORCES DEPART MAY CARRY MISLEADING CONNOTATIONS. THE TENURE OF THE AGREEMENT IS OPEN ENDED AND WE HAVE NO DEPARTURE PLANS. IF THE PHILIPPINE SIDE PUSHES FOR SUCH TERMINOLOGY, HOWEVER, WE CAN PROBABLY ACCOMMODATE IT.

8. PARA 7B (ADMINISTRATION - ARTICLE I: ANNEX A, PARA II, SUBPARA B):

SECRET

SECRET

PAGE 02 MANILA 02117 02 OF 02 111145Z

"USED PRIMARILY BY" - AGREE THAT BETTER TERMINOLOGY IS "USED EXCLUSIVELY BY". FIRST TWO SENTENCES SHOULD BE AMENDED ACCORDINGLY.

9. PARA 8 (ARTICLE I: ANNEX B, PARA II):

AREAS - CONCUR WITH PROPOSED CHANGE. ANNEX B, PARA II WOULD NOW READ:

"UPON ENTRY INTO FORCE OF THIS AGREEMENT, THE US GOVERNMENT RELINQUISHES THE USE OF THE FOLLOWING INSTALLATIONS OR PORTIONS OF SAID INSTALLATIONS AS INDICATED BELOW. FOR ITS PART, THE GOP AGREES THAT THE USG MAY CONTINUE TO USE, FOR THE DURATION OF THIS AGREEMENT, FOR MILITARY AND RELATED PURPOSES UNDER THE PROVISIONS OF THIS AGREEMENT, THE AREAS SPECIFIED BELOW AND FURTHER DESCRIBED IN ATTACHMENTS 1-5 TO THIS ANNEX."

10. PARA 8A (ARTICLE I: ANNEX B, PARA II):

TERMS - CONCUR. DELETE "FACILITY" AND INSERT "INSTALLATION".

1. PARA 8B (ARTICLE I: ANNEX B, PARA II, SUBPARA D(3)):

HOST/TENANT - EMBASSY APPRECIATES COMMENTS AND REALIZES THAT HOST/TENANT CONCEPT COULD POSSIBLY APPEAR APPLICABLE TO CLARK/SUBIC SITUATION. HOWEVER, BELIEVE SUCH CONCEPT IF APPLIED TO CLARK/SUBIC WOULD BE MISLEADING. EMBASSY ATTEMPTED TO MAKE DISTINCTION BETWEEN LARGE, COMPREHENSIVE AND EXCLUSIVE US OPERATIONAL AREAS ON PHILIPPINE BASES AT CLARK AND SUBIC AND RELATIVELY SMALL SPECIALIZED US OPERATIONS SUCH AS AT WALLACE (DRONES). HOWEVER TO FINESSE THIS POTENTIAL ISSUE, SUGGEST SUBJECT SUBPARAGRAPH BE MODIFIED TO AVOID HOST/TENANT NOMENCLATURE AND ALSO TO BE MORE IN LINE WITH WORDING IN PARA III. THEREFORE RECOMMEND THE FOLLOWING:
"OTHER U.S. MILITARY ACTIVITIES REQUIRED TO BE PERFORMED AT THIS INSTALLATION WILL BE ARRANGED PURSUANT TO THE PROVISIONS OF PARA III BELOW."

THIS WOULD REPLACE IN TOTAL THE PRESENT SUBPARAGRAPH (3) OF
ANNEX B, II, D.

SECRET

SECRET

PAGE 03 MANILA 02117 02 OF 02 111145Z

12. PARA 8C (ARTICLE I: ANNEX B, PARA II, SUBPARA E(3)):

EMBASSY PROPOERTY - CONCUR IN PROPOSED MODIFICATION,
ALTHOUGH WE WOULD RECOMMEND THAT THE SUBPARAGRAPH PERTAINING
TO THE EMBASSY PROPERTY BE INSERTED AS SUBPARAGRAPH (1). THE
PRESENT SUBPARAGRAPHS (1) AND (2) WOULD THEN BECOME (2) AND
(3). THE NEW SUBPARAGRAPH (1) WOULD READ:

"THE AREA OWNED BY THE UNITED STATES GOVERNMENT
AS DESCRIBED IN ATTACHMENT 5 TO THIS ANNEX WHICH
IS UTILIZED BY THE U.S. EMBASSY IS OUTSIDE THE
PURVIEW OF THIS AGREEMENT AND WILL NOT BE AFFECTED
BY ITS TERMS."

ADDITIONAL SUBPARAGRAPH (4) WOULD RETAIN THE WORDING WITH
SOME MODIFICATION OF PREVIOUS SUBPARAGRAPH (3) EXCEPT FOR
DELETION OF CLAUSE REFERING TO EMBASSY PROPERTY. IT WOULD
THEN READ:

"THE GOVERNMENT OF THE PHILIPPINES AGREES TO ALLOW
UNHINDERED ACCESS TO THE PROPERTY DESCRIBED IN (1),
(2) AND (3) ABOVE. THE GOP WILL ALSO INSURE THAT
THE UTILIZATION OF THE FORMER AREA KNOWN AS JOHN
HAY AIR BASE WILL NOT REDUCE THE WATER RESOURCES
OR OTHER ESSENTIAL UTILITIES NOW AVAILABLE FOR
THE CONTINUED USE AND ENJOYMENT OF THE AREAS
DESCRIBED ABOVE."

AN ALTERNATE PROPOSAL FOR THE TREATMENT OF JOHN HAY IS BEING
PREPARED BY THE EMBASSY AND WILL BE FOREARDED SOONEST FOR
WASHINGTON'S CONSIDERATION.

13. PARA 9 (ANNEX B: PARA IX, SUBPARA B(3)):

RIGHT TO PROHIBIT - THE PARENTHETICAL CLAUSE "INCLUDING
THE RIGHT TO PROHIBIT" WAS INADVERTENTLY DELETED FROM EMBASSY
DRAFT. EMBASSY CONCURS THAT IT SHOULD BE REINSERTED AFTER
THE WROD "CONTROL" ON LINE 1. ALSO THE WORDS IN PARENTHESIS
IN LAST LINE OF B(3) SHOULD BE DELETED. THIS PARAGRAPH WOULD
THEN REFLECT THE WORDING AGREED UPON IN THE 1971-72 NEGOTIATIONS.

SECRET

SECRET

PAGE 04 MANILA 02117 02 OF 02 111145Z

14. PARA 10 (ARTICLE II (2) AND ARTICLE I, ANNEX D):

FINANCIAL COMPENSATION - THIS TERMINOLOGY IS PURPOSEFULLY CRAFTED IN OPEN ENDED TERMS TO ALLOW INSERTION OF THE BREAD AND BUTTER THE GOP EXPECTS FROM US FOR THESE FACILITIES. THIS IS A PRIMARY VEHICLE FOR THE "QUID PRO QUO" WE ARE UNABLE TO DELIVER THROUGH STRAIGHT RENT, MAP, OR OTHER FORM OF FIXED ANNUAL PAYMENT.

15. IT SHOULD ALSO BE NOTED THAT A CLAUSE WAS INADVERTENTLY DROPPED FROM ANNEX B, II, D, (1) OF EMBASSY DRAFT. THE CLAUSE "FACILITIES WILL BE RETAINED BY THE VOA" SHOULD BE INSERTED AFTER "AMERICA" IN LINE 3 OF CITED SUBPARAGRAPH.
SULLIVAN

SECRET

NNN

Message Attributes

Automatic Decaptioning: Z
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENT DRAFT, MILITARY BASE AGREEMENTS, NEGOTIATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 11 FEB 1976
Decaption Date: 28 MAY 2004
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: izenbei0
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1976MANILA02117
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Film Number: D760051-0815
From: MANILA
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1976/newtext/t19760260/aaaacakk.tel
Line Count: 347
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EA
Original Classification: SECRET
Original Handling Restrictions: LIMDIS
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 7
Previous Channel Indicators: n/a
Previous Classification: SECRET
Previous Handling Restrictions: LIMDIS
Reference: 76 STATE 29990, 76 MANILA 1983
Review Action: RELEASED, APPROVED
Review Authority: izenbei0
Review Comment: n/a
Review Content Flags:
Review Date: 07 JUN 2004
Review Event:
Review Exemptions: n/a
Review History: RELEASED <07 JUN 2004 by greeneet>; APPROVED <28 SEP 2004 by izenbei0>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
04 MAY 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: MILITARY BASE NEGOTIATIONS
TAGS: MARR, RP, US
To: STATE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 04 MAY 2006